

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1249 - HB 1530

March 5, 2021

SUMMARY OF BILL: Requires health plans and pharmacy benefits managers (PBM) to provide the cost, benefit and coverage data upon request of an enrollee, an enrollee's healthcare provider, or the authorized representative of an enrollee.

Requires a health plan or PBM provide data for each drug covered under the enrollee's health plan that includes: (1) a list of any clinically appropriate alternatives to drugs covered under the enrollee's health plan; (2) cost-sharing information for the drugs and the clinically appropriate alternatives, including a description of any variance in cost-sharing based on pharmacy, whether retail or mail order, or healthcare provider dispensing or administering the drug or alternatives; and (3) applicable utilization management requirements for the drugs or clinically appropriate alternatives, including prior authorization, step therapy, quantity limits, and site-of-service restrictions.

Requires a health plan or PBM to ensure requested data is accurate, provided in real time, in the preferred format of the requesting party, and meet established accredited industry content and transport standards. Prohibits delivery of data by fax, payor or patient portal.

Requires data be provided regardless of whether the request is made using the drug's unique billing code, a Healthcare Common Procedure Coding System code, or using a descriptive term, such as the drug's brand name or generic name.

Prohibits a health plan or PBM from: (1) denying or delaying a data request based on the method used to make the request; (2) restricting a healthcare provider from communicating or sharing data, additional information on covered alternatives, or from executing options that reduce payment for a patient; and (3) penalizing a healthcare provider for information disclosures or prescribing, administering or ordering covered alternative drugs.

ESTIMATED FISCAL IMPACT:

**Increase State Expenditures - \$1,476,700/FY21-22
\$852,800/FY22-23 and Subsequent Years**

**Increase Federal Expenditures - \$5,851,300/FY21-22
\$2,014,000/FY22-23 and Subsequent Years**

Assumptions:

- Based on information provided by the Division of TennCare (Division), to meet the requirements of the proposed legislations, the Division's three managed care organizations (MCOs) and PBM will have to implement and maintain a data system to share the required pharmacy related data in real time. Existing infrastructure for both the MCOs and PBM will be used and expanded on.
- The average cost per MCO for implementation of the data system is estimated to be \$1,046,000. The total cost for implementation for all three MCOs is estimated to be \$3,138,000 ($\$1,046,000 \times 3$).
- Medicaid expenditures receive matching funds at a rate of 66.295 percent federal funds to 33.705 percent state funds. Of this amount, \$1,057,663 ($\$3,138,000 \times 33.705\%$) will be in state funds and \$2,080,337 ($\$3,138,000 \times 66.295\%$) will be in federal funds in FY21-22.
- Annual maintenance of the data system is estimated to be \$521,000 per MCO, per year.
- The total recurring cost for system maintenance for MCOs is estimated to be \$1,563,000 ($\$521,000 \times 3$) in FY22-23 and subsequent years. Of this amount, \$526,809 ($\$1,563,000 \times 33.705\%$) will be in state funds and \$1,036,191 ($\$1,563,000 \times 66.295\%$) will be in federal funds.
- The costs associated with implementing the data system for each of the three MCOs are significantly less than the PBM due to the MCOs system being limited to physician administered and hospital-based medications. The PBM data system will be required to aggregate and exchange data from all three MCOs in addition to medication data.
- The costs associated with implementing the data system for the PBM in FY21-22 is estimated to be \$4,190,000. Medicaid administrative expenditures for investments in information technology receive matching funds at a rate of 90 percent federal funds to 10 percent state funds. Of this amount, \$419,000 ($\$4,190,000 \times 10.0\%$) will be in state funds and \$3,771,000 ($\$4,190,000 \times 90.0\%$) will be in federal funds.
- Annual maintenance of the PBM data system is estimated to be \$1,303,750.
- Medicaid administrative expenditures in FY22-23 and subsequent years for ongoing information technology expenses receive matching funds at a rate of 75 percent federal funds to 25 percent state funds. Of this amount, \$325,938 ($\$1,303,750 \times 25.0\%$) will be in state funds and \$977,813 ($\$1,303,750 \times 75.0\%$) will be in federal funds.
- The total increase in state expenditures is estimated to be \$1,476,663 ($\$1,057,663 + \$419,000$) in FY21-22.
- The total recurring increase in state expenditures is estimated to be \$852,747 ($\$526,809 + \$325,938$) in FY22-23 and subsequent years.
- The total increase in federal expenditures is estimated to be \$5,851,337 ($\$2,080,337 + \$3,771,000$) in FY21-22.
- The total recurring increase in federal expenditures is estimated to be \$2,014,004 ($\$1,036,191 + \$977,813$) in FY22-23 and subsequent years.
- The Division of Benefits Administration does not anticipate an increase in administrative costs associated with this legislation. Any increase in expenditures will take place in the next contract procurement, which will be FY26-27.

- Based on information provided by the Department of Commerce and Insurance (DCI), the proposed legislation does not significantly impact any programs or policies of the DCI; therefore, any fiscal impact is estimated to be not significant.

IMPACT TO COMMERCE:

**Increase Business Revenue – \$7,328,000/FY21-22
\$2,866,800/FY22-23 and Subsequent Years**

**Increase Business Expenditures – \$7,328,000/FY21-22
\$2,866,800/FY22-23 and Subsequent Years**

Jobs Impact – Additional 10 positions

Assumptions:

- The Division of TennCare’s managed care organizations (MCO) and pharmacy benefits manager (PBM) will experience an increase in business expenditures to implement and maintain the new data system, estimated to be \$7,328,000 (\$1,476,663 + \$5,851,337) in FY21-22 and \$2,866,751 (\$852,747 + \$2,014,004) in FY22-23 and subsequent years. Such expenditures will be covered by state and federal funds, resulting in an equivalent increase in business revenue.
- The PBM will have to hire 10 full-time employees to implement and maintain the data system; therefore, the jobs impact is estimated to be an additional 10 full-time positions.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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